

The Unfit Preparation and Attempt of Criminal Offence

Abstract

The topic of the unfit preparation and attempt of criminal offence is one of the most disputable domains of criminal law. The conflict concerns mainly punishability of an act, which cannot really result in committing a crime, and punishment of perpetrator. In the study of criminal law, two basic approaches have developed. Other theories are derived from them. The first of basic approaches is the subjective theory, which emphasizes a malice of the perpetrator. In its radical form, it omits completely an act in the world. The second approach is represented by the objective theory, which constitutes the opposite of the subjective theory. This theory emphasizes mainly dangerousness of the perpetrator's act for society. The preference of theories has been changing, that is also represented by the difference of laws. The unfit attempt can be divided in three basic groups according to what is unfit: attempt on unfit object, attempt with unfit tools, attempt by unfit subject.

The thesis is divided into several parts. In the first part, the unfit preparation and the unfit attempt are introduced as evolutionary stadiums of a criminal act mainly from the point of view of current law. Then unfit forms and detailed explanation of both theory follow. Also such theories are mentioned, which mix both basic concepts or expand one of them. In the third part, I distinguish three basic groups of the unfit attempt and I add the fourth group of superstitious attempts, which are often ignored. After the chapter about criminal responsibility, the development of the institute in the area of the present Czech Republic is described since 1852. The thesis finishes with the chapter, how is the unfit attempt regulated in Slovakia and Germany.